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OFFICE OF PETITIONS

In re Application of :
Nikolich et al. :
Application No. 10/733,691 : DECISION ON PETITION
Filed: December 11, 2003 :
Attorney Docket No. Army176 :

This is a decision on the "PETITION FOR ACCEPTANCE OF CERTAIN PAGES OF APPLICATION SAID TO BE OMITTED, AND PETITION FOR RETENTION OF DECEMBER 11, 2003 FILING DATE FOR THESE PAGES," filed April 19, 2004, to accord the above-identified application a filing date of December 11, 2003, with pages 29-35 of the specification as part of the original application disclosure. This petition is properly treated under § 1.53(e)(2)¹.

Application papers in the above-identified application were filed on December 11, 2003. However, on April 5, 2004, the Initial Patent Examination Division mailed applicants a "Notice to File Corrected Application Papers." Applicants were notified that the application papers had been accorded a filing date; however, pages 29-35 of the specification appeared to have been omitted from the application.

In response, applicants timely filed the instant petition. Petitioners assert that pages 29-35 of the specification were included with the application when filed. In support thereof, petitioners submit a copy of the back side of their return postcard receipt.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of

¹ § 1.53(e) Failure to meet filing date requirements.

... (2) Any request for review of ... a notification that the original application papers lack a portion of the specification or drawing(s), must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in §1.17(h). In the absence of a timely (§1.181(f)) petition pursuant to this paragraph, the filing date of an application in which the applicant was notified of a filing error pursuant to paragraph (e)(1) of this section will be the date the filing error is corrected.

receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. Petitioners have submitted one side of their return postcard itemizing the items filed on December 11, 2003.

However, a review of the application papers already considered received in the Office on December 11, 2003, reveals that on page 36 of the specification, the Office stamped "The PTO did not receive the following listed item(s) pgs. 29-35 claims." In view thereof, it is requested that petitioner supply both sides of their return postcard.

The petition is **DISMISSED** without prejudice to reconsideration upon the submission of the front side of the postcard.

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
ATTN: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

By hand: CUSTOMER SERVICE WINDOW²
2011 South Clark Place
Crystal Plaza Two Lobby
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at 703-305-0309.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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